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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,601	07/26/2001	Jean-Luc Renaud-Bezot	CELA: 083	7203

7590 12/12/2002

PARKHURST & WENDEL, L.L.P.  
SUITE 210  
1421 PRINCE STREET  
ALEXANDRIA, VA 22314-2805

[REDACTED] EXAMINER

CHAMBERS, TROY

ART UNIT	PAPER NUMBER
3641	

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/912,601	RENAUD-BEZOT ET AL.
	Examiner	Art Unit
	Troy Chambers	3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_ .

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 3-8 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_ is/are allowed.

6) Claim(s) 1 and 3-8 is/are rejected.

7) Claim(s) \_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_ .

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .	6) <input type="checkbox"/> Other: _____

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5131329 issued to Lips et al. ("Lips"). Lips disclose an explosive ammunition projectile, comprising an outer case 2, 3; and, a tungsten or steel (col. 3, ll. 58-66) inner shell 4 having square structured zones 7. It can be seen in Fig. 1 that the outer surface of casing 2 is deviating inwardly to form a nose cone.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lips in view of U. S. Patent No. 5337673 issued to Koontz et al. ("Koontz"). Lips disclose an explosive ammunition projectile as described above. But, Lips does not disclose a fragmentation producing netting embedded in the case as claimed in applicant's claims 3 and 5. However, Koontz discloses such a feature.

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Specifically, Koontz discloses a fragmentation warhead 10 including a fragmentation netting 14 embedded into a warhead case 12 (col. 2, ll. 1-9). At the time of the invention, one of ordinary skill in the art would have found it obvious to provide the explosive ammunition projectile of Lips with the fragmentation netting of Koontz. The suggestion/motivation for doing so would have been to provide a novel and inexpensive method of producing controlled fragmentation warheads (col. 2, ll. 10-13).

5. With respect to claim 4, it is well known in the art to construct the outer casing of a projectile of plastic (as in US Patent No. 5979332) in place of metal. The suggestion/motivation for doing so would have been to make the projectile lightweight.

### ***Response to Arguments***

1. Applicant's arguments filed 10 October 2002 have been fully considered but they are not persuasive. With respect to the Lips reference, applicant argues: "the inner shell 4 is not for generating splinters". However, absent the inner shell no splinters would be generated, either directly or indirectly. Also, it is highly unlikely that the inner shell 4 would not fragment or splinter under the force of detonation despite having the structured zones or grooves 7. With respect to the Koontz reference, Applicant's Claims 3 and 5 require netting solidly joined (embedded) to the case. The metal liner 14 of Koontz was not meant to replace the grooved shell 4 of Lips but is an addition to it as is well known in the art.

***Conclusion***

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents cited in the accompanying form PTO-892 are cited as of interest to show similar fragmenting ammunition devices.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (703) 308-5870. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (703) 306-4198.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-

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4177. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-7687.

MICHAEL A. COHEN  
SUPERVISORY PATENT EXAMINER